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evidencing the loan. To protect its interests, CCC may pay any unpaid taxes with respect to the collateral or land securing a loan made in accordance with this part, and if CCC does so, the borrower will reimburse CCC for such payment, and if unpaid by the borrower, such debt will become due immediately.

[66 FR 4612, Jan. 18, 2001, as amended at 74 FR 41591, Aug. 18, 2009]

§ 1436.15 Maintenance, liability, insurance, and inspections.

(a) The borrower must maintain the loan collateral in a condition suitable for the storage of one or more of the facility loan commodities. For purpose of this section the term “loan collateral” will mean any property of any kind that was built or improved, or acquired using a loan made under this part.

(b) Until the loan has been repaid, the borrower will be liable for all damages to or destruction of the loan collateral. CCC will not assume any loss of the loan collateral.

(c) CCC may conduct annual collateral inspections to insure compliance with this part. The borrower must consent to such inspection as a term of the loan and failure to supply such access will put the borrower into default.

(d) Structures must be insured against all perils in all cases and must also be insured against flooding if the structure is located in a flood plain, as determined by CCC. Proof of flood insurance, if required, and proof of all peril structural insurance, must be provided to CCC annually. CCC must be listed as a loss payee on all peril and flood insurance policies.

(e) CCC will have rights of ingress and egress where the facility is located. Failure of the borrower to secure such access will render a borrower ineligible for the loan and, if a loan has already been made will constitute a loan default for which the remaining balance of the loan will become immediately due and payable.

(f) For sugar storage facility loans, in addition to the requirements of paragraph (d) of this section, sugar processors must also insure the contents of storage structures used as collateral

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for a sugar storage facility loan against all perils.

[66 FR 4612, Jan. 18, 2001, as amended at 67 FR 54939, Aug. 26, 2002; 74 FR 41591, Aug. 18, 2009]

§ 1436.16 Foreclosure, liquidation, assumptions, sales or conveyance, or bankruptcy.

(a) The collateral or land securing a loan may be sold by CCC whenever CCC has declared the entire indebtedness immediately due and payable under this part as follows:

(1) If a demand for payment is not received by the due date acceptable to CCC, CCC may call the loan and initiate foreclosure proceedings by issuing a liquidation letter to the borrower.

(2) The debtor may voluntarily agree to allow removal of the collateral to facilitate sale by signing an agreement for sale. If the debtor objects to removal of collateral, the law of the State where the collateral exists will be used to foreclose on the property.

(3) For loans with movable collateral and no real estate lien, CCC may sell the collateral for the best price obtainable. Sales proceeds will be distributed in the following order:

(i) To CCC to satisfy the debtor's indebtedness including all costs associated with selling the collateral.

(ii) Payment to junior lien holders if approved by USDA's Office of the General Counsel and then to the borrower or other persons as determined appropriate by that office.

(4) For loans with non-movable or non-salable collateral, as determined by CCC, and no real estate lien, CCC may establish a claim according to 7 CFR part 1403.

(5) For loans secured with a real estate lien, CCC may obtain an appraisal of the property. Sales proceeds will be distributed in the following order:

(i) To CCC to satisfy the debtor's indebtedness including all costs associated with selling the collateral and the appraisal.

(ii) To junior lien holders if approved by USDA's Office of the General Counsel; or

(iii) To the borrower or other persons as determined appropriate by that office.

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(b) Assumption by another borrower of a farm storage facility loan is permitted subject to county committee approval and the subsequent borrower's ability to show a satisfactory credit history. An assumption of the loan may be approved when the collateral is sold by CCC to an otherwise eligible borrower, the current borrower will convey the collateral or property securing the loan to another eligible borrower, or the borrower is dead, incompetent, or missing and an eligible borrower wants to assume the loan.

(1) Requests for approval of assumptions must be made to the county committee by the borrower, the borrower's successors, or representatives of the borrower. If approval is granted, the borrower's successors or representatives must execute a new farm storage facility note and security agreement for the balance of the term of the loan.

(2) The principal amount of the loan will include the unpaid amount of the loan, interest computed to the date of assumption, all past due installments, and any other charges that may be required.

(c) The borrower may voluntarily convey the collateral to CCC before repaying the loan. Before a borrower sells or conveys the facilities or other property securing a loan without repaying the loan in full, the borrower must obtain approval for the sale or conveyance from the FSA county committee with the understanding that sale proceeds must be paid to satisfy the borrower's indebtedness to CCC.

(d) If any significant changes are made to the legal or operating status of the farming operation with an outstanding Farm Storage Facility Loan, the borrower must do one of the following:

(1) Find an eligible borrower or entity to assume the loan as specified in paragraph (b) of this section,

(2) Repay the loan, or

(3) Undergo new financial analysis, as approved and determined by CCC, to ensure CCC's interests are protected and that the current borrower is in a position to continue making the scheduled loan payments.

(e) Remedies provided for in this section will, unless CCC determines otherwise, be subject to the administrative

appeals provided for elsewhere in this part, including those that are found at § 1436.13.

[66 FR 4612, Jan. 18, 2001, as amended at 74 FR 41591, Aug. 18, 2009]

§ 1436.17 Environmental compliance.

(a) Except as otherwise specified in this section, prior to approval of any farm storage facility loan, an environmental evaluation will be completed to determine if the proposed action will have any adverse impacts on the environment and cultural resources.

(b) If it is determined that a proposed action or group of proposed actions will not result in any adverse impact, the action will be considered as being categorically excluded for the purpose of compliance with the National Environmental Policy Act (NEPA), 40 CFR parts 1500-1508.

(c)(1) If adverse environmental impacts (either direct or indirect) are identified, an environmental assessment will be completed in accordance with the Council on Environmental Quality's Regulations for Implementing the Procedural Provisions of NEPA.

(2) The environmental assessment will be used to develop an action that results in no significant environmental impact on the human environment or cultural resources.

(3) No action will be approved that has been determined to have significant impacts on the human environment or cultural resources.

(d)(1) In order to minimize the exposure to environmental liabilities from the presence of contamination on real estate collateral, an evaluation will be made of the economic and environmental risks to the real estate collateral posed by the presence of hazardous substances and petroleum products.

(2) If the evaluation made under paragraph (d)(1) of this section reveals that the collateral is or may be contaminated, then the applicant will be notified and given an option of offering as collateral other real estate that is free from contamination or remediating the contamination on the original site offered as collateral.